

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DEBBIE L. TREZVANT, TIMOTHY)	
CAHILL, DEBORAH CHERYL ARCH, and)	
MARY-CATHERINE PICHE, each of them)	
individually and on behalf of all others similarly)	
situated and similarly situated current and)	
former employees of Defendants,)	
)
Plaintiffs,)	
)
v.)	CIVIL ACTION NO. 05-10673 WGY
)
FIDELITY EMPLOYER SERVICES)	
CORPORATION, FIDELITY EMPLOYER)	
SERVICES COMPANY LLC, and FMR)	
CORP.,)	
)
Defendants.)	
)

**DEFENDANTS' MOTION TO DISMISS COUNT II
OF PLAINTIFFS' FIRST AMENDED COMPLAINT (HEARING REQUESTED)**

Defendants Fidelity Employer Services Corporation, Fidelity Employer Services Company LLC, and FMR Corp. (collectively, "Defendants") move to dismiss Count II of the First Amended Complaint ("Amended Complaint") filed by Plaintiffs Debbie L. Trezvant, Timothy Cahill, Deborah Cheryl Arch, and Mary-Catherine Piche (collectively, "Plaintiffs") for failure to state a claim upon which relief can be granted pursuant to Fed.R.Civ.P. 12(b)(6). In the alternative, Defendants move to strike Count II of the Amended Complaint pursuant to Fed.R.Civ.P. 12(f) to the extent that Plaintiffs purport to assert New Hampshire state law claims on a class action basis. Defendants also move to dismiss the claims brought by Mary-Catherine Piche because all of her claims are barred by the applicable statutes of limitations. The grounds for this motion are more fully set forth in Defendants' Memorandum of Law in Support of Their

Motion to Dismiss Count II of Plaintiffs' First Amended Complaint, filed contemporaneously herewith.

REQUEST FOR ORAL ARGUMENT

Defendants believe that oral argument may assist the Court and wish to be heard.

Respectfully submitted,

FIDELITY EMPLOYER SERVICES
CORPORATION, FIDELITY EMPLOYER
SERVICES COMPANY LLC and
FMR CORP.,
By their attorneys,

/s/ Richard L. Alfred
Richard L. Alfred (BBO # 015000)
Krista G. Pratt (BBO # 644741)
Barry J. Miller (BBO # 661596)
SEYFARTH SHAW LLP
World Trade Center East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800
Telecopier: (617) 946-4801

Brett C. Bartlett (admitted *pro hac vice*)
SEYFARTH SHAW LLP
1545 Peachtree Street, N.E., Suite 700
Atlanta, GA 30309-2401
Telephone: (404) 892-6412
Telecopier: (404) 892-7056

Dated: August 26, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served on Thomas E. Kenney, Pierce & Mandell, P.C., 11 Beacon St., Suite 800, Boston, MA 02108 by first class mail, postage prepaid, on August 26, 2005.

/s/ Barry J. Miller
Barry J. Miller